

ORDINANCE NO. 2002-009

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, PERTAINING TO VACANT LOT MAINTENANCE; PROVIDING FOR DEFINITIONS; PROVIDING FOR AFFECTED PARTIES; PROVIDING FOR LOT MAINTENANCE AND PLANTING REQUIREMENTS; PROVIDING FOR PLANTING PLAN APPROVAL PROCEDURES; PROVIDING FOR PLANT MAINTENANCE REQUIREMENTS; PROVIDING FOR VARIANCE PROCEDURES AND EXEMPTIONS; PROVIDING FOR CAPTIONS; PROVIDING FOR APPLICABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE UNIFIED LAND DEVELOPMENT CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, homeowners residing in residential areas have a cognizable interest in preserving the character of their neighborhoods; and

**WHEREAS**, the replacement of homes on multiple, contiguous lots with poorly maintained vacant lots presents a threat to the health, safety and welfare of the public by damaging the character of residential neighborhoods, by decreasing property values, and by increasing the potential for vandalism and other criminal activity; and

**WHEREAS**, the Board of County Commissioners has determined that it is in the best interest of public welfare to preserve neighborhood character and prevent blight and directed that staff continue the efforts of the Lake Worth Road Corridor Task Force in a countywide capacity as the Countywide Community Revitalization Team on April 23, 1996; and

**WHEREAS**, Chapter 125, Florida Statutes, establishes the right and power of counties to provide for the health, welfare, and safety of the existing and future residents by the enactment and enforcement of land development and administrative regulations necessary for the protection of the public; and

**WHEREAS**, Chapters 125 and 163, Florida Statutes, grant authority to the Board of County Commissioners to adopt and enforce land development regulations within the unincorporated area of Palm Beach County; and

**WHEREAS**, the proposed amendments to the Unified Land Development Code have been reviewed by the Citizens Task Force at public meetings and recommendations of the Citizens Task Force were forwarded to the Board of County Commissioners; and

**WHEREAS**, the Citizens Task Force, sitting as the Land Development Regulation Commission, finds that this amendment to the Unified Land Development Code is consistent with the Comprehensive Plan.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:**

The Unified Land Development Code of Palm Beach County is amended as follows:

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1           **PART 1**

2  
3           **Subpart 1.1       Section 3.2, Definitions, is hereby amended to add and delete**  
4                               **language as follows:**

5           **Contiguous** means, but is not limited to, land separated by ~~only~~ streets, easements,  
6 pipelines, power lines, conduits, rights-of-way under ownership of the land owner of one of the  
7 subject parcels, a property owners association or a governmental agency, or a public utility  
8 only. For density and vacant lot maintenance purposes only, contiguous means lots that share  
9 a common border. (Lots that touch point-to-point, and lots which are separated by waterways,  
10 streets, or major easements are not considered contiguous for density calculations or for  
11 vacant lots requirements in Sec. 7.3.L., Vacant Lots.)

12           **Subpart 1.2       Section 7.3.L., Vacant Lots, is hereby created as follows:**

13  
14           **L. Vacant Lots.**

15               **1. Definitions.** For the purposes of this Section only, the following definitions shall apply:

16                       **Home(s)** mean(s) single family houses, zero-lot line houses, townhouses, duplexes,  
17 multi-family dwellings or other structures intended or used for residential housing.

18                       **Significant degradation** means any of the following:

19                               **a)** where twenty percent (20%) or more of the homes on one side of a street within  
20 the same address block have been demolished and the remaining lots are left  
21 vacant; or

22                               **b)** where homes on two or more contiguous lots are demolished and the remaining  
23 lots are left vacant; or

24                               **c)** where a home(s) on a contiguous lot(s) is demolished and the remaining lot(s)  
25 is left vacant, creating a gap in the combined lot frontage measuring one  
26 hundred (100) linear feet or greater in length.

27                       **Vacant lot** means any tract or parcel of land upon which a home has been demolished  
28 and which has not been redeveloped. For the purposes of this Section only,  
29 redeveloped means the construction of a home.

30               **2. Affected parties.** Any owner of a vacant lot in a residential neighborhood upon which  
31 a home has been demolished to the extent that it no longer qualifies for a certificate of  
32 occupancy must follow the maintenance requirements of this Section if the vacant lot,  
33 by itself or in combination with other vacant lots resulting from the demolition of a home  
34 or homes, results in significant degradation of the surrounding neighborhood as  
35 defined in this Section. In the event significant degradation occurs, all contiguous  
36 vacant lots that contribute to the significant degradation and are otherwise subject to  
37 this Section are required to follow the maintenance requirements of this Section.

38               **3. Applicability.** This section shall apply to the Urban/Suburban Tier in the  
39 unincorporated areas of Palm Beach County, as defined in the Plan.

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1                   **4. Lot maintenance and planting requirements.**

- 2                   **a. Ground treatment.** Vacant lots regulated by this Section must be cleared of  
3                   construction materials and debris, and must be covered with sufficient ground  
4                   treatment to cover the entire lot in accordance with Sec. 7.3.E.9, Ground Treatment.  
5                   Existing ground treatment may be used to meet the requirements of this Section.  
6                   The clearing and planting must be completed within 120 days of the completion of  
7                   demolition, within 120 days of the effective date of this section, or within 30 days  
8                   of Department approval of a planting plan, whichever is later. Slab foundations or  
9                   other structural features remaining from demolished houses, or from other  
10                  demolished structures, must be removed from vacant lots regulated by this section.  
11                  **b. Trees.** Trees shall be planted or preserved in accordance with the requirements  
12                  of Sec. 7.3.G., Interior landscape requirements. Trees shall be native or drought  
13                  tolerant.  
14                  **c. Existing Trees.** Preservation of existing native trees is encouraged and credit  
15                  shall be given towards the requirements of Sec.7.3.L.4.b above. If existing native  
16                  trees are removed, they shall be replaced in accordance with the standards in  
17                  Table 7.3-3, or Sec. 7.3.L.4.b, whichever is greater. The size of the replacement  
18                  trees shall be in accordance with Sec. 7.3.G., Interior landscape requirements.  
19                  **d. Prohibited plant species.** Existing prohibited plant species must be removed  
20                  and trees replaced on a one-to-one basis with a native tree. Replacement trees  
21                  for removed prohibited plant species shall be consistent with the interior landscape  
22                  requirements of Sec.7.3.G., Interior landscape requirements.  
23                  **e. Removal.** Removal shall be consistent with the provisions of Sec. 9.5, Vegetation  
24                  Preservation and Protection.

25                  **5. Planting plan application and approval.**

- 26                  **a. Planting plan.** The owner shall submit a planting plan indicating the method of  
27                  ground treatment, existing and replacement trees, and irrigation simultaneously  
28                  with the application for a demolition permit.  
29                  **b. Demolition permit.** The Building Division shall not issue the demolition permit  
30                  until a planting plan is approved by the Zoning Division unless the applicant signs  
31                  an affidavit in accordance with Section 7.3.L.7.b.  
32                  **c. Review of planting plan.** The Zoning Division shall determine if the planting plan  
33                  is sufficient and includes the information necessary to evaluate the plan within five  
34                  (5) days of receipt. The Zoning Division shall approve, approve with conditions, or  
35                  deny the plan within ten (10) days of the determination of sufficiency. If necessary,  
36                  the Zoning Division or Environmental Resources Management Department shall  
37                  conduct a site visit as part of the plan review.  
38                  **d. Standards.** The Zoning Division shall consider the following criteria in reviewing  
39                  the planting plan: 1) whether or not the ground treatment and other landscape  
40                  materials are consistent with the established character of the neighborhood; 2)  
41                  whether or not the proposed planting is consistent with the applicable Crime  
42                  Prevention Through Environmental Design principles contained in Sec. 6.7.J.6.c;  
43                  3) whether or not the placement of trees is consistent with the potential future  
44                  development of the lot; and, 4) whether or not alternative or temporary irrigation  
45                  methods such as hand-watering are acceptable.

46                  **5. Plant installation, maintenance, pruning and irrigation.** Native vegetation, drought  
47                  tolerant vegetation, or ground treatment shall be installed, maintained, pruned and  
48                  irrigated in accordance with the requirements of Section 7.3.H., Installation,  
49                  maintenance, pruning and irrigation, as may be amended from time to time, and  
50                  conditions of approval for the planting plan in Sec. 7.3.L.5 above. Temporary irrigation

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1 methods may be approved for native vegetation only, subject to a  
2 maintenance/replacement agreement.

3 **6. Variances and Exemptions.**

4 a) Vacant lots resulting from the demolition of a home based on a declaration by the  
5 building official that the home is unsafe are exempt from the requirements of this  
6 Section.

7 b) Where an owner initiates redevelopment of the vacant lot within 120 days of  
8 demolition, as evidenced by submittal of a building permit application, application  
9 for site plan approval, or other applicable development permit application or good  
10 faith effort to redevelop the lot, the requirements of this Section do not apply for so  
11 long as the permit or good faith effort is active.

12 In order to receive an exemption described in Sec.7.3.L.b above at the time of a  
13 demolition permit application, the application must submit an affidavit stating that  
14 the applicant expects to meet the requirements of Sec. 7.3.L.7.b within 120 days  
15 of completion of the demolition. The affidavit shall be made on a form established  
16 by the Zoning Director. If an exemption is granted based on an affidavit, the  
17 property owner shall submit evidence as required by Sec. 7.3.L.7.b within 120 days  
18 of completion of the demolition, or shall submit a planting plan within 30 days of the  
19 expiration of the 120 day period.

20 c) Vacant lots where the home was demolished prior to April 23, 1996 are exempt  
21 from the requirements of this Section.

22 d) Vacant lots resulting from eminent domain proceedings are exempt from the  
23 requirements of this Section.

24 e) Vacant lots resulting from demolition of a home using funding from a demolition  
25 program of the Department of Housing and Community Development are exempt  
26 from the requirements of this Section.

27 f) A property owner may apply for a variance subject to Section 5.7.I, Administrative  
28 Variances, as may be amended.

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32 **(This space intentionally left blank.)**

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**Subpart 1.3 Section 5.7.I, Administrative variance, shall be amended to add and delete language as follows:**

- A. Definition and purpose. ...**
- B. Authority. ...**
- C. Applicability. ...**
- D. Initiation. ...**
- E. Procedures. ...**
- F. Standards. ...**
- G. Conditions. ...**
- H. Time Limitations. ...**
- I. Administrative variance.** The Zoning Director may impose such conditions in a development order for an administrative variance as necessary to accomplish the goals, objectives and policies of the Comprehensive Plan and this Code, including but not limited to limitations on size, bulk, location, requirements for landscaping, buffering, lighting, and provisions of adequate ingress and egress. The Zoning Director may issue the following types of administrative variances:
  - 1. Structural encroachments into setbacks. ...**
  - 2. Preservation of vegetation. ...**
  - 3. Native Ecosystem Overlay District - flexible development regulations. ...**
  - 4. Vacant Lots.** The owner of a lot that is subject to Sec. 7.3.L, Vacant Lots, may apply to the Zoning Director for a variance from the time frames, landscaping, and amount of coverage required based on consideration of the following criteria:
    - a. The length of time the lot has been maintained as a vacant lot.
    - b. Whether the applicant intends to redevelop the lot within one year of the demolition of the home.
    - c. Whether literal interpretation of the terms of the requirements would work an unnecessary and undue hardship and the applicant can demonstrate that the demolition does not significantly diminish the residential character of the neighborhood.
    - d. The existence of special conditions that mitigate the detrimental effect of the vacant lot on the character of the residential neighborhood.
    - e. Whether granting the variance will be consistent with the purposes goals, objectives, and policies of the Plan and the ULDC.
- 4 5. Appeal of decision by the Zoning Director.** Any person aggrieved by a decision of the Zoning Director shall, within thirty (30) calendar days, file an appeal to the Board of Adjustment using the forms and procedures established by the Zoning Director.

**Part 2. CAPTIONS:** The captions, section headings, and section designations used in this Ordinance are intended for the convenience of users only and shall have no effect in the interpretation of the provisions of this Ordinance.

**Part 3. REPEAL OF LAWS IN CONFLICT:** All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

**Part 4. SEVERABILITY:** If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

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**Part 5. INCLUSION IN THE UNIFIED LAND DEVELOPMENT CODE:** The provisions of this Ordinance shall become and be made a part of the Unified Land Development Code of Palm Beach County, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

**Part 6. EFFECTIVE DATE:** The provisions of this Ordinance shall become effective upon filing with the Department of State.

**APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this 12 the day of March, 2002.**

**ATTEST:**

**DOROTHY H. WILKEN, CLERK**  
**BOARD OF COUNTY COMMISSIONERS**

By: Linda C. Hickman  
Deputy Clerk



**PALM BEACH COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS**

By:   
Vice Chairman

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

By:   
County Attorney

**EFFECTIVE DATE:**

Filed with the Department of State on the 22 day of March, 2002.

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STATE OF FLORIDA, COUNTY OF PALM BEACH  
I, DOROTHY H. WILKEN, ex-officio Clerk of the  
Board of County Commissioners certify this to be a  
true and correct copy of the original filed in my office  
on March 12, 2002  
DATED at West Palm Beach, FL on 4/3/02  
DOROTHY H. WILKEN, Clerk  
By: Juan Brown D.C.

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